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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,228	08/27/2003	Troy Stacey Crowder	WH 11 717US	8266

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EXAMINER

CAMPBELL, KELLY E

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,228

Applicant(s)

CROWDER, TROY STACEY

Examiner

Kelly E Campbell

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lynn et al (US 2,985,461).

Lynn et al teaches a hockey skate including:

a boot;

a blade holder (10);

and an adjustable arrangement (17,18,15,16) for altering the orientation of the blade holder (10) to the boot;

the blade holder adjustable arrangement securing an outwardly extending toe flange (A), *see the attached drawing labeled by the Examiner*, and outwardly extending heel flange (B) of the blade holder (10) to the boot;

the adjustable arrangement (15,16,17,18) engaging the outwardly extending flanges of the blade holder in one of a plurality of positions where each position has a different position of the blade relative to a centerline of the boot, *see Figure 2*.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meibock et al (US 5,452,907) in view of Woolley (US 4,251,086).

Meibock et al teaches:

a skate boot (12);

a blade holder (14);

and an adjustable arrangement (24,26,32,34,44) for altering the orientation of the blade holder (14) to the boot, see Abstract;

the blade holder adjustable arrangement securing a toe flange (24), and heel flange (26) of the blade holder (10) to the boot;

the adjustable arrangement (24,26,32,34,44) engaging the flanges of the blade holder in one of a plurality of positions where each position has a different position of the blade relative to a centerline of the boot, see Figure 5;

wherein the adjustable arrangement (24,26,32,34,44) includes a series of releasable fasteners (42) passing through ports (52) in the blade holder and engaging the boot to secure the blade holder (14) to the boot;

Art Unit: 3618

wherein the holder has elongated slots (30) in the toe and heel flanges (24,26) to accommodate a series of toe in and toe out positions, see Figure 5;

wherein the adjustable arrangement (24,26,32,34,44) is a clamping arrangement for each flange engaging the holder (14) to the boot (16) including a first clamping component (44) secured to the boot (16) and a second clamping component (42) secured to the holder (14).

Meibock et al does not teach an ice skate having outwardly extending heel and toe flanges.

Woolley teaches an ice skate blade holder (10) formed of plastic including a blade (36) and outwardly extending toe (24) and heel (22) flanges.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the adjustable skate arrangement taught by Meibock et al, such that, the flanges of the skate blade holder are outwardly extending flanges as taught by Woolley, in order to provide a greater area of connection between the skate blade holder and the boot of the skate for a sturdier connection and greater support for the user.

With regards to claims 9-10, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plastic blade holder formed of either reinforced or injectable molded plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Art Unit: 3618

With regards to claim 5, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the skate adjustable arrangement to include at least 4 adjustment slots, in order to provide a greater degree of adjustability, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co.v. Bemis Co.*, 193 USPQ 8.

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foffano et al (US 6,276,695).

Foffano et al teaches a hockey in-line skate (401) including:

A boot (402), a blade holder (407) and an in-line skate blade comprised of wheels (409) and an adjustable arrangement or exteriorly accessible worm screw (411) for adjustably securing the blade holder (407) in a series of positions where the relationship of the blade to the centerline of the boot, is altered, see Figures 10-11, wherein the adjustments can be made by the skater while wearing the skate, see Column 6, lines 31-48.

Foffano et al does not teach "a blade" for the hockey skate.

Siemnash teaches that the blade holders (5) for wheeled skates, can be interchangeable between wheels (6) and an ice skate blade (8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the simulated hockey skate with in-line wheels to instead include an ice skate blade, in order provide an adjustable skate for use on ice by hockey players.

Art Unit: 3618

With regards to claim 13, it would have been obvious to one of ordinary skill in the art to modify the skate worm assembly to include a front and rear worm, as opposed to a single worm drive for adjusting both the front and rear of the skate for a providing a greater degree of adjustability of the skate at angles to the centerline, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bachand teaches a shoe skate attachment means with outwardly extending flanges. Johnson teaches an interchangeable skate having outwardly extending flanges. Olson et al teaches a skate blade holder attachment means including outwardly extending flanges. Patterson teaches a skate having an adjustable assembly. Post et al teaches a blade holder for a skate including outwardly extending flanges. Gabrielli teaches an adjustable wheel holder assembly for a skate.

Art Unit: 3618

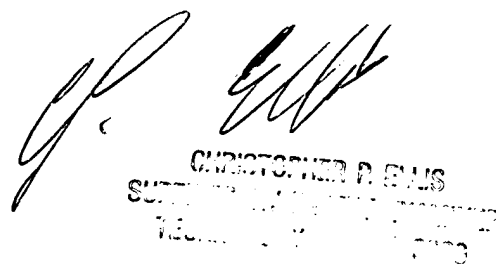
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E Campbell whose telephone number is (703) 605-4264. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KEC



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